

1 MS. POWER: I think there are plenty of ways to
2 interpret it that don't necessarily include your way, Tom.
3 But I really don't want to bicker about it.

4 MR. CARROCCIO: Well, then you clarify what your
5 way is, Counsel, and we will consider the question.

6 MS. POWER: We're going to be here then a long
7 time because I think that the question has been worded
8 properly.

9 BY MS. POWER:

10 Q Is there anything in Mr. Easton's testimony that
11 day that is inconsistent with the facts as you know them to
12 be true?

13 A Nothing jumped out at me as being inconsistent
14 with the facts as I know them.

15 MS. POWER: Okay. That concludes our questions.

16 CROSS EXAMINATION

17 BY MR. CARROCCIO:

18 Q Mr. Breen, you were asked by counsel if you asked
19 Ronit Milstein if Cynthia Hamilton had anything of substance
20 -- or anything to substantiate what she had told Ms.
21 Milstein. Do you recall that question?

22 A What question?

23 Q Okay. Let me simply ask another question. Did

1 Ms. Milstein ever tell you that Cynthia Hamilton had
2 anything -- any evidence to substantiate what she had told
3 Ms. Milstein?

4 A No.

5 Q With regard to the deposition of Anthony T. Easton
6 that took place on Tuesday the -- Wednesday the -- Tuesday
7 the 9th of December 1997, did you attend that deposition?

8 A No.

9 Q Did you review the transcript of that deposition?

10 A I gave it a cursory review.

11 Q When discussing meetings with Mr. Easton, you were
12 asked if his resignation from PCS 2000 and Unicom had been
13 in approximately April of 1996. Do you recall if his
14 resignation was earlier than April of 1996?

15 A His resignation was on the same day that the
16 independent counsel's report was delivered by independent
17 counsel to the board of directors of PCS 2000. That date
18 escapes me, but that is when the resignation happened.

19 Q And that would have been the event you're
20 referring to?

21 A Yes.

22 MR. CARROCCIO: Off the record for a few minutes.
23 We're going to need to get a document.

1 (Whereupon, a brief recess was taken.)

2 BY MR. CARROCCIO:

3 Q Mr. Breen, there was some testimony about a
4 bidding binder or bidding records binder maintained at the
5 offices of the San Mateo Group. Do you recall your
6 testimony on that?

7 A Yes.

8 Q Do you know what happened to that bidding binder
9 or the bidding binders, plural?

10 A I believe it is plural because by the time we got
11 to 186 or whatever the total number of rounds were, it had
12 grown to maybe two or three binders. At the conclusion of
13 the project, the originals I believe went to PCS 2000 in
14 Puerto Rico. And I instructed that two copies be made of
15 those original binders, one which I retained and the other I
16 provided to Mr. Easton.

17 Q With regard to the copy that you retained, did you
18 forward it to this office to be provided to the Federal
19 Communications Commission in response to their request for
20 production of documents in this proceeding?

21 A I sent the contents of one of the binders to your
22 office.

23 Q And was that binder the binder that included round

1 11?

2 A Yes.

3 Q I would like to hand you a packet of documents and
4 ask if you could identify that packet of documents, please.

5 A This appears to be copies of the bidding records
6 for rounds 11 and 12 of the C block PCS auction that were
7 maintained by -- in the offices of San Mateo Group.

8 MR. CARROCCIO: And -- if anybody wants to check
9 what we've just given them to -- against what is here, I'm
10 going to keep this and provide copies. But if you want to
11 take a look just to make sure that everything's the same, I
12 would ask you to do so.

13 BY MR. CARROCCIO:

14 Q Mr. Breen, with regard to round 11 -- are you
15 looking at that?

16 A Yes.

17 MR. CARROCCIO: I would like to ask that this be
18 marked as Breen Deposition Exhibit Number 3.

19 (The document referred to was
20 marked for identification as
21 Breen Exhibit Number 3.)

22 BY MR. CARROCCIO:

23 Q When responding to Bureau counsel's questions

1 earlier, is this the round 11 bidding record you observed in
2 the binder --

3 A Yes.

4 Q -- during --

5 A I'm sorry.

6 Q -- during -- during the week of January 23-24,
7 1996?

8 A Yes.

9 Q Turning to the other document -- well, before we
10 leave that document, can you locate the Virginia Beach,
11 Norfolk, Newport News bidding line on that?

12 A Yes, I've located it.

13 Q And can you read that line from left to right?

14 A "Norfolk, Virginia Beach, Newport News - HA" -- I
15 don't know what the rest of it is because it's cut off
16 because of the way it was printed -- "Market B324; 1,635,296
17 pops; \$11.01 per pop; Value" -- which means the bid --
18 "\$18,006,000.00."

19 Q And are there -- are there any handwritten
20 notations on that document?

21 A On the right-hand margin, "ATE 23 Jan 96 @ 9:35
22 a.m."

23 Q Do you recognize that handwriting?

1 A Yes.

2 Q And whose handwriting is it?

3 A Mr. Easton's.

4 Q And is this -- I believe you testified that this
5 is the document that you observed in the binder and were
6 referring to during your response to Bureau counsel's
7 questions, is that correct?

8 A Yes.

9 Q Mr. Breen, could you go to Tab 12. By the way,
10 Mr. Breen, do the tabs correspond to bidding rounds?

11 A Yes.

12 Q Mr. Breen, is the material that --

13 MR. CARROCCIO: I would like to have that marked
14 as Breen Exhibit Number 4.

15 (The document referred to was
16 marked for identification as
17 Breen Exhibit Number 4.)

18 BY MR. CARROCCIO:

19 Q Mr. Breen, can you identify the material behind
20 Tab 11?

21 MR. WEBER: Do you mean Tab 12?

22 MR. CARROCCIO: I'm sorry. Thank you, Mr. Weber.

23 BY MR. CARROCCIO:

1 Q Yes, as Mr. Weber corrected me, behind Tab 12.

2 A These are all of the items that were in the binder
3 from round 12. And that is the round that was bid on
4 Wednesday following the Tuesday that's the subject of this
5 proceeding.

6 Q May I direct your attention to the fifth page of
7 that packet, please. Do you recognize the initials on that
8 page?

9 A This is the page that has withdrawn across from
10 B324. The initials are QB -- that's myself -- and ATE,
11 that's Mr. Easton.

12 Q Would you go to the next page, please. Can you
13 tell us what that page is?

14 A This page is a screen print from the FCC bidding
15 computer that was what you use to identify the market from
16 which you wish to withdraw a bid. We have marked X in
17 Market B324 that has \$180,060,000.00. It says, "Withdrawal
18 approved", in my handwriting. It is signed by me and
19 initialed by Mr. Easton.

20 Q Mr. Breen, the next page, please.

21 A The next page is a preview page which is a screen
22 print from the FCC bidding computer. By preview, it is
23 meant that this is what you're going to be bidding. And

1 after you've reviewed this document, you hit the submit
2 button. And then the bid is entered.

3 The procedure in the office was for this page to
4 be initialed by whoever it was -- whichever of the
5 authorized bidding representatives were in the office on
6 that day and approving the bids. This says, "Actual bid
7 submitted"; that's in Ronit's handwriting. It's approved by
8 Mr. Easton with the date 24 Jan. '96. Down below are my
9 initials approving.

10 Q That's a three page document, Mr. Breen. Could
11 you go to the next document in the packet?

12 A The next page is a -- also a preview. It has
13 written in Ronit's handwriting one item, "Market B394
14 manually changed to reflect minimum bid". It has Mr.
15 Easton's initials; the date 24 Jan. '96; and it has my
16 initials. And what it looks like is that we had a preview
17 page. An item was changed. We got another preview page
18 which is the previous exhibit within this set that we looked
19 at. And that was the actual bid submitted.

20 Q Mr. Breen, sequentially, are we following the
21 order or are we going in reverse order?

22 A We're going in reverse order.

23 Q Mr. Breen, could I ask you to go to the last

1 document in this packet which would be the first document in
2 sequential order, if I understand you correctly.

3 A The one that is headed, "Print all"?

4 Q No. I'm sorry, sir. No, I believe that's -- yes,
5 I think we're stapled differently. I'm sorry. Three pages
6 from the end, if you would, please. At the top it says
7 something "/PCS WIMSY/Export/2FCCM0123011.dbf".

8 A I have that document.

9 Q Can you identify the handwriting on that document?

10 A The top right is my handwriting. It says, "Round
11 12 bid crossing out round 11." It looks to be a copy of the
12 round 11 results marked up to reflect a round 12 bid.

13 Q Can you find the Norfolk, Virginia Beach, Newport
14 News line on this one, please.

15 A Yes. It's indicated with an arrow on the right
16 margin with an X to the right of the arrow.

17 Q And what is the -- could you read across that
18 line?

19 A "Norfolk, Virginia Beach, Newport News - HA B324,
20 1,035,296 pops; \$110.11 per pop; \$180,060,000.00 value",
21 which means the amount bid.

22 Q Do you know when you first saw this document, Mr.
23 Breen?

1 A I may have seen it Tuesday evening -- I must have
2 seen it Tuesday evening because I'm doing the bid for round
3 12 and this is my worksheet. So Tuesday evening after I've
4 driven to and arrived in San Mateo, I'm looking at this
5 document.

6 Q Mr. Breen, looking at Breen Deposition Exhibit
7 Number 3 and the page we are presently on in Breen
8 Deposition Exhibit Number 4, were you at the time of the
9 round 12 bid preparation able to reconcile those two
10 documents?

11 A No. And therein lay the mystery.

12 Q By mystery, are you referring to an unexplained --
13 unexplainable or unexplained situation?

14 A The round 11 tab contains an 18 million dollar bid
15 for Norfolk. Yet the mark-up that I am using contains 180
16 million dollar bid for Norfolk. And they can't both be
17 correct. The FCC has indicated that the bid it received was
18 180 million dollars. The only available documents in the
19 binder indicate an 18 million dollar bid. And that is not
20 reconciled.

21 Q Was the, to use your term, mystery solved on the
22 24th of January 1996?

23 A No.

1 Q Was it solved on the 25th of January 1996?

2 A No.

3 Q Was it solved on the 26th of January 1996?

4 A No.

5 Q More specifically, was it solved by the time the
6 waiver request was filed on January 26th, 1996?

7 A No.

8 Q Was this document referenced in the waiver -- was
9 the -- was Breen Exhibit Number 3 referred to in the waiver
10 request?

11 A The waiver request referred to the Exhibit Number
12 3 bid, the \$18,006,000.00 bid, as the bid that PCS 2000
13 believed that it had submitted. At the time of the waiver
14 request, the mystery was still outstanding. But that
15 language was in the waiver request to account for the fact
16 that that was the belief based on the evidence then
17 available. And, indeed, that's why that language was in the
18 waiver request.

19 Q Mr. Breen, to the extent you participated in
20 preparing bids -- the bid for round 11, did you intend --
21 what did you intend the bid to be for the Norfolk, Virginia
22 BTA?

23 A I intended that bid to be the minimum bid

1 increment. And the minimum bid increment was
2 \$18,006,000.00.

3 Q Did any person associated with PTS 2000 indicate
4 an intent to submit any other bid for that market?

5 A No.

6 Q Have you had any -- have you had any indication
7 from the -- January 23rd, 1996 through the present date that
8 there was any intention to submit other than this bid?

9 A No.

10 MR. CARROCCIO: I have no further questions.

11 MS. POWER: Just one more question.

12 REDIRECT EXAMINATION

13 BY MS. POWER:

14 Q Were these binders three-ring binders?

15 A Yes.

16 MS. POWER: That's all. Thank you very much.

17 MR. CARROCCIO: Thank you, Kaki.

18 (Whereupon, at 3:09 p.m. on Friday, December 12,
19 1997, the hearing was concluded.)

20 //

21 //

22 //

23 //

1 I have read the foregoing pages 1 through 98,
2 and they are a true and accurate record of my
3 testimony therein recorded, and any changes and/or
4 corrections appear on the attached errata sheet
5 signed by me.

6

7

Quentin L. Breen

8

9

Subscribed and sworn to before me

10

this ____ day of _____, 199_

11

12

Notary Public

13

My Commission expires: _____

14

JURISDICTION: _____

Before me, the undersigned authority, personally appeared _____ who, after being duly sworn states that he/she has read the foregoing deposition transcript, and states that he/she wishes to make the following changes or corrections to this transcript for the following reasons:

PAGE	LINE	CHANGE	REASON FOR CHANGE
------	------	--------	-------------------

The witness states that the deposition transcript, pages 1 through 98, is otherwise true and accurate.

SWORN AND SUBSCRIBED before me on the _____ day
of _____, A.D. 19__.

Notary Public

My Commission Expires: _____

REPORTER'S CERTIFICATE

FCC DOCKET NO.:

CASE TITLE: WESTEL SAMOA, INC.

HEARING DATE: December 12, 1997

LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date: 12/15/97

Official Reporter
Heritage Reporting Corporation
1220 "L" Street, N.W.
Washington, D.C. 20005
Peter Shonerd

TRANSCRIBER'S CERTIFICATE

I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

Date: 12/15/97

Official Transcriber
Heritage Reporting Corporation
Bonnie Niemen

PROOFREADER'S CERTIFICATE

I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date: 12/15/97

Official Proofreader
Heritage Reporting Corporation
Karen Adams

EXCERPTS FROM DEPOSITION TRANSCRIPT

MICHAEL DUELL SULLIVAN
(NOVEMBER 25, 1997)

Page 4

21 Q Are you familiar with entities known as
22 Romulus Telecommunications, Inc.?
23 A Yes, I am.

Page 5

1 Q Are you familiar with an entity known
2 as San Mateo Group?

3 A Yes, I am.

4 Q Are you aware of who -- of the
5 ownership of Romulus Telecommunications, Inc.?

6 A Romulus Telecommunications, Inc. is
7 owned -- or was owned, I believe, indirectly by
8 Quentin Breen and Anthony T. Easton -- Terry
9 Easton.

10 Q Are you aware of the ownership of San
11 Mateo Group?

12 A It's my understanding that San Mateo
13 Group is owned by Mr. Easton and/or his wife,
14 perhaps through some intermediary corporations
15 or something.

16 Q Are you aware if Mr. Breen had any
17 ownership interest in San Mateo Group?

18 A Excuse me?

19 Q Are you aware if Mr. Breen had any
20 interest in San Mateo Group?

21 A It's my understanding that he did not.

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10 Q Thank you. Mr. Sullivan, could I
11 direct your attention, please, to the 23rd of
12 January 1996. On that date, did you receive any
13 communication from PCS 2000?

14 A Yes, I did. I received a telephone
15 call from Mr. Easton, who was acting as the
16 bidding agent for PCS 2000. And Mr. Easton
17 informed me that a terrible mistake had
18 occurred, that the FCC's bidding results showed
19 that PCS 2000 had entered a bid of -- I don't
20 remember the exact number -- I remember \$180
21 million when it should have been \$18 million.

22 And he said he had called the FCC to
23 tell them that the mistake had been made and

Page 11

1 that he had faxed some materials to the FCC and
2 was going to fax them to me. And he wanted me
3 to get in touch with the FCC to find out what we
4 should do to correct the error.

5 Q Mr. Sullivan, you indicate that at the
6 time Mr. Easton first contacted you, he
7 indicated that he had already spoken and
8 corresponded with the Federal Communications

9 Commission?

10 A That's correct.

11 Q Had you had any opportunity of any sort
12 to consult with Mr. Easton before his
13 conversations with the Federal Communications
14 Commission?

15 A I don't know whether it was one or more
16 conversations, but I know that he called me
17 after and not before the one conversation I know
18 of.

19 Q And had you had any opportunity to
20 review any documents before Mr. Easton had sent
21 them to the Federal Communications Commission?

22 A No.

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12 Q Did Mr. Easton characterize the
13 documents -- characterize to you the documents
14 that he had faxed to the FCC?

15 A Yes, he did. He indicated to me
16 initially that these documents proved that the
17 bid error is the FCC's as a result of some
18 problem either in the transmission between his
19 computer and the FCC's or at the FCC's computer.
20 And he was telling me this before I had seen the
21 documents. And after seeing the documents, I
22 then discussed with him just what these
23 documents were.

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1 Q Excuse me, Mr. Sullivan. You indicated
2 that, "...after seeing the documents...", did
3 there come a time when Mr. Easton transmitted
4 copies of the documents to you?

5 A Yes, that's correct. He transmitted
6 them to me, I believe, immediately after sending
7 them to the FCC.

8 Q Had he transmitted them to you prior to
9 his calling you?

10 A No. Prior to his initial calling me?
11 No.

12 Q But his initial call to you was
13 subsequent to his having transmitted them to the
14 FCC?

15 A It was either subsequent to or
16 concurrent with.

17 Q At the time that you -- when we
18 indicate these documents were transmitted to
19 you, was that by facsimile?

20 A Yes.

21 Q And at the time you had the documents
22 in front of you, you said Mr. Easton explained
23 to you what they were?

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1 A Yes.

2 Q And can you tell us what he told you

3 about these documents?

4 A Well, there were a number of documents
5 and I can't remember what all of them were. But
6 the critical document was a document that was
7 labeled at the top "To FCC". And it was a
8 computer printout of some bids indicating, among
9 other things for Norfolk, the bid of \$18 million
10 approximately.

11 And this document was initialed by Mr.
12 Easton and there was a time written on it as
13 well. And Mr. Easton told me that this was a
14 printout from his spreadsheet program. And I
15 was not familiar with how PCS 2000's bidding
16 system worked but Mr. Easton explained that he
17 used a spreadsheet to determine what to bid for
18 which markets, and the spreadsheet then
19 generated an output file called "To FCC" which
20 was then uploaded to the bidding computer
21 through a local area network. The bidding
22 computer was then used to contact the FCC and
23 submit the bid.

Page 15

1 He explained that in this case, after
2 he uploaded the file from his spreadsheet to the
3 FCC bidding computer, that some changes had to
4 be made on line, and that after making those
5 changes on line and submitting the bid to the

6 FCC, he then went back to his computer and the
7 spreadsheet program and made conforming changes.
8 And this was the output of the spreadsheet
9 program after having input the conforming
10 changes that he said he had made.

11 Q And did Mr. Easton indicate to you that
12 these changes had been made contemporaneous with
13 the submission of the bid?

14 A I don't know -- Well, they were not at
15 the same time but it was my understanding that
16 they were made -- after going off line on the
17 FCC, he went back into his office and updated
18 the spreadsheet. That was as I understood it at
19 the time.

20 Q And did Mr. Easton indicate to you the
21 significance of any time notation on that
22 printout?

23 A No, he didn't, actually. I wanted to

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1 know whether we had the original file that had
2 been uploaded to the computer, but that had been
3 automatically overwritten when he made the
4 conforming changes. It was my feeling that if
5 we had the original file that had been uploaded
6 to the bidding computer, that would have been
7 the best possible evidence of what they had
8 submitted, other than an actual output from the

9 bidding program.

10 This was the next best evidence because
11 it was roughly contemporaneous, but it was not
12 actual evidence of what was transmitted.

13 Q And, in any event, would the upload
14 from Mr. Easton's computer have been the best
15 evidence of what was transmitted to the FCC, in
16 light of the fact that there had been
17 manipulation of that file at the bidding
18 station?

19 A Well, the best evidence would have been
20 a printout from the bidding program, the
21 confirmation sheet from the bidding program
22 which is generated by the FCC computer. That's
23 my understanding. Mr. Easton told me that there

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1 was no such printout because they had had some
2 sort of problem with their print server, which
3 was also a fax server, and he said it had been
4 rebooted or had had electrical problems, or was
5 overloaded, or something. I was very confused
6 on that.

7 Q So in light of the fact that there was
8 no bid confirmation and that prior spreadsheets
9 had been overwritten, you understood that you
10 were dealing with the then best available
11 evidence?

12 A Yes.

13 Q Did Mr. Easton at that time indicate to
14 you an absolute -- In his indications to you at
15 that time, was Mr. Easton absolute in where the
16 error had occurred?

17 A He wasn't absolute. He thought it was
18 unlikely it was a transmission error, but he
19 said that it was possible that it was a
20 transmission error between the sending computer
21 and the host computer at the FCC. He thought it
22 was more likely that it was at the FCC's end.
23 He didn't believe that there had been any error

Page 18

1 at his end at that point.

* * * * *

16 Q Subsequent to your conversation with
17 Mr. Easton, did you have any communications with
18 the Federal Communications Commission?

19 A Yes.

20 Q Did you have communications with any
21 particular individual at the FCC?

22 A Yes. I called the Auctions Division,
23 after having discussed with Terry what these

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1 documents were, and spoke with a Sue McNeil, and
2 informed her that there had been a bidding

3 error, that we wanted to find out if the FCC had
4 recorded the keystrokes that had been
5 transmitted to verify whether or not there had
6 been an error on the FCC's end or not -- Mr.
7 Easton had told me it was his belief that the
8 keystrokes were recorded -- and that I would
9 send her copies of the information that I had
10 gotten from the client, which was a printout
11 from the data base, including some materials
12 that had been updated after the auction to
13 conform to changes made on line. I faxed that
14 information to her and she said that the
15 Auctions Division would get back to me.

16 Thereafter, I received a call from I
17 believe Kathleen Ham and Sue McNeil and some
18 others, and they advised me that in situations
19 such as this, that given the fact that the time
20 for bid withdrawal had passed that day, that the
21 best we could do is withdraw the bid on the
22 subsequent day during the bid withdrawal period
23 and request a waiver setting forth all the

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1 facts.

2 Q So your discussion, your second
3 discussion with Ms. McNeil, which included Ms.
4 Ham and others, was essentially a procedural
5 discussion?